

UNITED STATES ET AL. vs. AMERICAN ELECTRIC POWER.

FACT SHEET

Overview

On October 9, 2007, the United States, eight states, and thirteen citizen groups announced a settlement agreement with American Electric Power (AEP) under the Clean Air Act's (Act) New Source Review (NSR) provisions that obtains relief at sixteen (16) of AEP's coal-fired power plants (46 units) located in Indiana, Kentucky, Ohio, Virginia, and West Virginia.

By several measures this is the single largest environmental enforcement settlement. It is the largest environmental settlement as measured in terms of injunctive relief. As described in more detail below, it is estimated that AEP will spend more than \$4.6 billion to comply with the consent decree. The settlement also is the largest as measured in terms of pollution reductions obtained from the owner or operator of a Clean Air Act stationary source(s). Upon full implementation, the settlement will secure at least 813,000 tons per year of air pollution reductions from AEP's 16 power plants.

In 2006, nitrogen oxide (NO_x) emissions at these 16 plants totaled 231,000 tons per year. By 2016, these AEP emissions will be reduced to 72,000 tons per year, continuing in perpetuity. In 2006, sulfur dioxide (SO₂) emissions at these 16 plants totaled 828,000 tons per year. By 2018, these AEP emissions will be reduced to 174,000 tons per year, continuing in perpetuity. This SO₂ reduction -- from a single settlement -- is more than the SO₂ emitted from most states (45 out of 50). This reduction in emissions is one of the largest percentage decreases achieved in any of the United States' prior settlements with coal-fired electric utilities, and it reflects a multi-billion dollar investment by AEP.

The settlement requires the installation and continuous operation of pollution control technology such as selective catalytic reduction devices (SCRs) for the control of NO_x and flue gas desulfurization equipment (FGD), also known as scrubbers, for the control of SO₂ emissions.

In addition to the significant reductions of SO₂ and NO_x, AEP will pay a \$15 million penalty, the highest penalty paid by any electric utility in settlement of a New Source Review case. Under the settlement, AEP also committed \$60 million to perform or finance environmental mitigation projects.

The Defendant

AEP ranks among the nation's largest generators of electricity. This settlement includes 16 plants located in Indiana, Kentucky, Ohio, Virginia, and West Virginia, which, combined, generate over 20,000 megawatts.

Power Plants Enforcement Effort

The Department of Justice, at EPA's request, has filed lawsuits against several coal-fired electric utilities for alleged violations of the Clean Air Act. This series of cases seeks to bring the power plant industry into full compliance with the NSR and Prevention of Significant Deterioration (PSD) requirements of the Clean Air Act. This settlement with AEP represents the fourteenth judicial settlement under the power plants enforcement effort. EPA has reached similar settlements with Alabama Power, Illinois Power Company and Dynegy Midwest Generation, Alcoa Rockdale, TX, facility, PSEG Fossil, Southern Carolina Public Service Authority, Southern Indiana Gas and Electric Company Culley Station, Tampa Electric Company, Virginia Electric Power Company, Wisconsin Electric Power Company, First Energy, Minnkota Power Cooperative and Square Butte Power Cooperative; East Kentucky Power Cooperative; and Nevada Power Company.

Clean Air Act Violations

The United States, states, and citizens groups alleged that AEP made physical and operational changes at nine of its plants that constituted "major modifications" without first undergoing PSD review or Non-attainment New Source Review (NNSR), obtaining required permits, and installing and operating Best Available Control Technology and/or technology reflecting the Lowest Achievable Emission Rate (LAER) to reduce air pollution.

Environmental Benefits

Harmful Pollutants Addressed by This Settlement

Nitrogen oxides: NO_x cause a variety of health problems and adverse environmental impacts, such as ground-level ozone, acid rain, PM, global warming, water quality deterioration, and visual impairment. NO_x play a major role, along with volatile organic chemicals, in the atmospheric reactions that produce ozone.

Sulfur dioxide: High concentrations of sulfur dioxide affect breathing and may aggravate existing respiratory and cardiovascular disease. Sensitive populations include asthmatics, individuals with bronchitis or emphysema, children, and the elderly. Sulfur dioxide is also a primary contributor to acid deposition, or acid rain.

Health Benefits

Once AEP has fully installed the pollution control equipment required by the settlement, the United States estimates that the annual benefits to public health will include approximately \$32 billion per year saved in avoided health-related costs associated with respiratory and cardio-pulmonary illnesses, including asthma and heart attacks.

Civil Penalties

AEP will pay a civil penalty in the amount of \$15 million.

Mitigation Projects

AEP is required to spend \$60 million to perform and finance environmental mitigation projects to address the impacts of past emissions; the total amount will be split 60%/40% between the United States and the various settling states. The \$36 million federal share of mitigation projects will be spent on projects to acquire and restore ecologically sensitive land in eastern states downwind of AEP's plants; restore or improve watersheds and forests in national parks adversely affected by past emissions; reduce nitrogen loading to Chesapeake Bay through actions such as the acquisition of buffer zones; and additional projects to reduce emissions from mobile sources, such as diesel barge tugs and conventionally powered trucks in AEP's fleet. The remaining \$24 million for environmental projects will be allocated among the states that joined the settlement.

Other Plaintiffs

The following eight states joined as plaintiffs in the case: New York, New Jersey, Massachusetts, Vermont, Connecticut, New Hampshire, Maryland, and Rhode Island.

The following citizen groups also joined as plaintiffs: Natural Resources Defense Council, National Wildlife Federation, Sierra Club, United States Public Interest Research Group, Izaak Walton League of America, Ohio Citizen Action, Citizens Action Coalition of Indiana, Hoosier Environmental Council, Ohio Valley Environmental Coalition, West Virginia Environmental Council, Clean Air Council, Indiana Wildlife Federation, and the League of Ohio Sportsmen.